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In re Application of
Asaki, et al.
U.S. Serial No.: 10/584,829
PCT No.: PCT/JP2004/019553
Int. Filing Date: 27 December 2004
Priority Date: 25 December 2003
Attorney's Docket No.: 44342.025000
For: AMIDE DERIVATIVE AND MEDICINE

: DECISION ON
: PETITION UNDER
: 37 CFR 1.10(c)

This decision is in response to "REQUEST FOR CORRECTION OF APPLICATION FILING DATE AND WITHDRAWAL OF NOTICE OF ABANDONMENT", filed 30 November 2007. This has been treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a national stage filing date of 26 June 2006.

BACKGROUND

On 27 December 2004, applicants filed international application PCT/JP2004/019553 that claimed priority of an earlier Japanese application filed 25 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 26 June 2006.

On 26 June 2006, applicants filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, an English translation, a declaration and the basic national fee of \$300. These papers were assigned U.S. Serial No. 10/584,829.

On 20 November 2007, a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was mailed to applicant indicating that the application was abandoned for failure to pay the basic national fee of \$300 by thirty months from the earliest claimed priority date.

On 30 November 2007, applicants filed the current petition requesting that the above-identified application be accorded a national stage filing date of 26 June 2006.

DISCUSSION

37 CFR 1.10(c) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant filed the petition promptly after realizing that the Office accorded a filing date other than the "date-in" date and the USPS round stamp date. Further, the Express Mail mailing label number was placed on the "Certificate of mailing by "Express Mail" included with the filing of the national stage application. Applicant has also provided an "Express Mail" label showing a "date-in" of 26 June 2006.

CONCLUSION

Applicant's petition to correct the national stage filing date to 26 June 2006 is hereby **GRANTED**.

The "NOTICE OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 20 November 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage for processing in accordance with this decision.



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